



**U.S. Department of Justice**

*United States Attorney  
Eastern District of New York*

AES/DCP/DKK  
F.#2014R00501

*271 Cadman Plaza East  
Brooklyn, New York 11201*

December 16, 2017

By Hand and ECF

Honorable Kiyo A. Matsumoto  
United States District Judge  
Eastern District of New York  
225 Cadman Plaza East  
Brooklyn, NY 11201

Re: United States v. Evan Greebel  
Criminal Docket No. 15-637 (KAM)

Dear Judge Matsumoto:

The government respectfully submits this letter in response to the Court's request for proposed jury instructions related to (1) the backdating evidence admitted in connection with Count One and (2) the Rosenfeld consulting agreement. The parties have conferred but were unable to reach resolution on the proposed language for each instruction. In addition, the government proposed a joint letter setting forth both parties' proposed instructions, but the defendant did not respond to the proposal before filing its own letter. Accordingly, the government sets forth below only its proposed instructions for the Court's consideration.

I. Proposed Instruction Regarding Backdating

"There has been evidence concerning the transfer of Retrophin shares to MSMB Capital and others in late 2012, as well as evidence about the dates of those transfers. I instruct you that, although you can consider this evidence as evidence of the conspiracy charged in Count One, the government is not alleging that the share transfers themselves defrauded Retrophin, and you cannot find the defendant guilty of Count One solely on the basis of the evidence about these transfers and the dates on which they occurred."

II. Proposed Instruction Regarding the Rosenfeld Consulting Agreement

"The defense offered testimony from Dr. Steven Rosenfeld about his Consulting Agreement and Release with Retrophin. I instruct you that the conspiracy charged in Count One does not allege that agreement constituted a fraud against Retrophin."

While the government has not included argument regarding its proposals (as it expected to file a neutral joint letter by the 6:00pm deadline), should the Court wish, the

government is prepared to briefly address its positions on these instructions in court on Monday morning.

Respectfully submitted,

BRIDGET M. ROHDE  
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